

Providing Solutions for Opportunity Zones

The Opportunity Zones program offers tax incentives to investors, allowing for the use of realized capital gains to reinvest those dollars in underserved communities across the U.S. The events of the last few years, along with updated guidance, have led to renewed interest in the benefits offered by this program.

At the program's inception, the tax incentives provided investors with an opportunity to defer recognition of gains on sales of assets, permanently reduce a portion of the deferred gain to be recognized, and permanently exempt any future gain with respect to reinvested proceeds. This occurs by reinvesting the gain in a Qualified Opportunity Fund ("QOF"), an investment vehicle specifically focused on making investments in Qualified Opportunity Zone ("QOZ") businesses and/or property, allowing for greater diversification than other tax deferral mechanisms. Certain aspects of the program expired in December 2021, however, there are still some advantages to keep in mind.

Potential Tax Incentives for Investors

Tax Deferral

Tax deferral on capital gain invested in QOF to the earlier of the sale or exchange of the investment asset(s) or December 31, 2026.

Reduction of Deferred Gain (expired December 2021)

After holding investments in a QOF for a specified time period before December 31, 2026 investors were able to receive a permanent reduction of deferred gains, however, the investment deadline for this benefit expired December 2021.

Exclusions of Investment Appreciation

After holding investments in a QOF for at least ten years, Taxpayers may elect to receive a permanent exclusion of the appreciation of the QOF investment through a full basis step up to the FMV of the QOF investment on the date such investment is sold or exchanged.

Service Timeline

Cherry Bekaert has an established Opportunity Zones team with deep technical knowledge of key tax, accounting, transaction structuring and compliance issues. Our Opportunity Zones services provide you with the tools you need to make the right investment decision, following a seamless process.

STEP 1

Fund organization and structuring for qualification under the rules

- ▶ Review overall objective of QOF and investments intended to be made, identify potential issues and address as necessary with company and legal advisors.
- ▶ Coordinate with company attorneys on requirements for QOFs and fund partnership structure to address any identified issues.
- ▶ Review partnership agreement for QOF and provide comments to ensure qualification of funds and interests held by investors and sponsors.
- ▶ Review and ensure contributions to the QOF qualify, i.e., confirm funds are coming from capital gains incurred in the last 180 days (or slightly different timing depending on investor type).

STEP 2

Investment planning for qualified assets or trade or business of the Fund

- ▶ Review planning for investment in assets or trade or business to be acquired by QOF or Qualified Opportunity Zone Business (QOZB).
- ▶ Identify issues to be addressed in structure of QOZBs, and other investors in the QOZB, including General Partner or other QOFs.

- ▶ Evaluate other sources of capital to be used in funding the projects or businesses held by QOZB, including New Markets Tax Credits, Historic Tax Credits, State Tax Credits or other equity and financing sources.
- ▶ Review draft operating agreements from attorneys to ensure qualifications for OZ rules related to QOF and QOZB are met.

STEP 3 | Income and asset testing and compliance for Qualified Opportunity Zone Businesses

- ▶ Assess and monitor (quarterly preferred but at least semiannually) asset and income compliance testing for QOZB, and address as necessary cures of any issues in the testing, or meeting of safe harbor provisions as allowed under IRS rules.
- ▶ Prepare and file initial tax year return for QOZB including testing data that would then be provided to QOF investors in QOZBs on their K-1s for inclusion on Form 8996 filed by such investor QOFs.
- ▶ Annually prepare and file tax returns for QOZB and update information in regard to testing information to be provided to QOF investors for their inclusion on Form 8996, and any specific state filings required to comply with any specific OZ rules at the state level.
- ▶ Identify and address transaction matters as they arise during period the QOZB is developing the real estate project or initial start-up of the trade or business held by the QOZB.

STEP 4 | Asset testing and compliance for Qualified Opportunity Funds

- ▶ Assess and monitor (quarterly preferred but at least semiannually) asset and compliance testing for QOF, and address as necessary cures of any issues in the testing, as allowed under IRS rules.
- ▶ Prepare and file initial tax year return for QOF including election for QOF status with Form 8996.
- ▶ Annually prepare and file tax returns for QOF and update of information for Form 8996, and any specific state filings required to comply with any specific OZ rules at the state level.
- ▶ Identify and address transaction matters as they arise during period the QOF is invested in OZ assets and their underlying development or QOZBs.

For an individual investor, Cherry Bekaert can provide guidance in investment fundamentals and assist with the following:

- ▶ Tax modeling to compare investment in OZ versus other deferral techniques such as 1031 exchange or other long-term investments
- ▶ Review of private placement memorandum or prospectus for funds for information and qualifications under the OZ program
- ▶ Advice and planning for eligible gains to rollover into OZ funds
- ▶ Provide projected tax returns (before and after) and net present value for comparison with other funds/projects

Make the Right Investment

Cherry Bekaert's dedicated Opportunity Zones team can help you find and take advantage of all allowable benefits, affording you extra cash to invest in future developments.



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About Cherry Bekaert

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